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Before the
Federal Communications Commission
Washington, D.C. 20554

Aug 12 4 57 AM '04

In the Matter of

DISPATCH

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Liberty, Pennsylvania)MB Docket No. 04-127
RM-10941

(Susquehanna, Pennsylvania)

MB Docket No. 04-128
RM-10942

(Barnwell, South Carolina)

MB Docket No. 04-129
RM-10943

(Burnet, Texas)

MB Docket No. 04-130
RM-10944

(Denver City, Texas)

MB Docket No. 04-131
RM-10945

(Van Alstyne, Texas)

MB Docket No. 04-132
RM-10946

(Fountain Green, Utah)

MB Docket No. 04-133
RM-10947

(Shenandoah, Virginia)

MB Docket No. 04-135
RM-10949
RM-10950

(Augusta, Wisconsin)

MB Docket No. 04-136
RM-10951

(Hayward, Wisconsin)

MB Docket No. 04-137
RM-10952

(St. Marys, West Virginia)

MB Docket No. 04-138
RM-10953
RM-10954**REPORT AND ORDER**
(Proceeding Terminated)

Adopted: August 10, 2004

Released: August 12, 2004

By the Assistant Chief, Audio Division:

1. The Audio Division has before it *Notices of Proposed Rule Making*¹ setting forth eleven Petitions for Rule Making to amend the FM Table of Allotments, Section 73.202(b) of the Commission's rules, to reserve certain vacant FM allotments for noncommercial educational ("NCE") use.²

2. As stated in the *Notice*, the Commission established revised criteria by which a rulemaking proponent may reserve an FM allotment for NCE use that was originally limited to future allotment proceedings.³ Subsequently, the Commission extended the expanded criteria to existing vacant FM allotments for which a Notice of Proposed Rule Making had been released prior to August 7, 2000, the effective date of the *NCE Report and Order*.⁴ Under this expanded criteria, a proponent must demonstrate that it is technically precluded from using a reserved channel (Channels 201 through 220) and the proposal would provide a first and/or second NCE radio service to at least 10 percent of the population within the 1 mV/m contour of the proposed station.

3. We find that the public interest would be served by reserving the above-captioned allotments for NCE use. Each petitioner has expressed a continuing interest in applying for an FM allotment reserved for NCE use, is eligible to do so, and has demonstrated compliance with the expanded criteria set forth in the *NCE Report and Order*. Accordingly, we adopt each proposal as originally proposed. These are as follows:

A. MB Docket No. 04-127; RM-10941

Action: At the request of Youngshine Media, Inc., we are reserving vacant Channel 298A at Liberty, Pennsylvania for NCE use.

Coordinates: 41-29-28 NL and 77-12-22 WL

Additional Information: Starboard Media Foundation, Inc. filed supporting comments expressing an interest in applying for vacant Channel 298A at Liberty, if reserved for NCE use. No other comments were received in response to this proceeding.

B. MB Docket No. 04-128; RM-10942

¹ *Liberty, PA, Susquehanna, PA, Barnwell, SC, Burnet, TX, Denver City, TX, Van Alstyne, TX, Fountain Green, UT, Shenandoah, VA, Augusta, WI, Hayward, WI and St. Marys, WV*, 19 FCC Rcd 6953 (MB 2004) ("Notice").

² 47 C.F.R. § 73.202(b).

³ *Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, 15 FCC Rcd 7386 (2000) ("NCE Report and Order"). Previously, the Commission would only reserve a channel in the nonreserved FM band (Channels 221 through 300) if the petitioner demonstrated that no reserved channel could be used in the noncommercial reserve band (Channels 201 through 220) without causing prohibited interference to a Channel-6 TV station or a foreign broadcast station.

⁴ *Reexamination of the Comparative Standards for Noncommercial Educational Applicants* ("NCE Second Report and Order"), 18 FCC Rcd 6691 (2003). In a Public Notice released September 30, 2003, we invited petitions for rule making to reserve vacant FM allotments for NCE use pursuant to the *NCE Second Report and Order*.⁴ In response to the Public Notice, we received 129 petitions for the reservation of 91 allotments.

Action: At the request of American Family Association, we are reserving vacant Channel 227A at Susquehanna, Pennsylvania for NCE use.

Coordinates: 41-55-44 NL and 75-31-50 WL

Additional Information: Starboard Media Foundation, Inc. filed supporting comments expressing an interest in applying for vacant Channel 227A at Susquehanna, if reserved for NCE use. No other comments were received in response to this proceeding.

C. MB Docket No. 04-129; RM-10943

Action: At the request of American Family Association, we are reserving vacant Channel 256C3 at Barnwell, South Carolina for NCE use.

Coordinates: 33-24-29 NL and 81-16-43 WL

Additional Information: Starboard Media Foundation, Inc. filed supporting comments expressing an interest in applying for vacant Channel 256C3 at Barnwell, if reserved for NCE use. No other comments were received in response to this proceeding.

D. MB Docket No. 04-130; RM-10944

Action: At the request of American Family Association, we are reserving vacant Channel 240A at Burnet, Texas for NCE use.

Coordinates: 30-51-05 NL and 98-17-35 WL

Additional Information: Starboard Media Foundation, Inc. filed supporting comments expressing an interest in applying for vacant Channel 240A at Burnet, if reserved for NCE use. No other comments were received in response to this proceeding.

E. MB Docket No. 04-131; RM-10945

Action: At the request of American Family Association, we are reserving vacant Channel 248C2 at Denver City, Texas for NCE use.

Coordinates: 33-01-53 NL and 102-48-47 WL

Additional Information: Starboard Media Foundation, Inc. filed supporting comments expressing an interest in applying for vacant Channel 248C2 at Denver City, if reserved for NCE use. No other comments were received in response to this proceeding.

F. MB Docket No. 04-132; RM-10946

Action: At the request of American Family Association, we are reserving vacant Channel 260A at Van Alstyne, Texas for NCE use.

Coordinates: 33-27-08 NL and 96-27-21 WL

Additional Information: Starboard Media Foundation, Inc. filed supporting comments expressing an interest in applying for vacant Channel 260A at Van Alstyne, if reserved for NCE use. No other comments were received in response to this proceeding.

G. MB Docket No. 04-133; RM-10947

Action: At the request of Intermountain Educational Communications, Inc., we are reserving vacant Channel 260A at Fountain Green, Utah for NCE use.

Coordinates: 39-37-42 NL and 111-38-24 WL

Additional Information: Starboard Media Foundation, Inc. filed supporting comments expressing an interest in applying for vacant Channel 260A at Fountain Green, if reserved for NCE use. No other comments were received in response to this proceeding.

H. MB Docket No. 04-135; RM-10949, RM-10950

Action: At the request of Sister Sherry Lynn Foundation, Inc. and American Family Association, we are reserving vacant Channel 296A at Shenandoah, Virginia for NCE use.

Coordinates: 38-30-00 NL and 78-36-33 WL

Additional Information: Starboard Media Foundation, Inc. filed supporting comments expressing an interest in applying for vacant Channel 296A at Shenandoah, if reserved for NCE use. No other comments were received in response to this proceeding.

I. MB Docket No. 04-136; RM-10951

Action: At the request of Starboard Media Foundation, Inc., we are reserving vacant Channel 268C3 at Augusta, Wisconsin for NCE use.

Coordinates: 44-40-11 NL and 90-57-55 WL

Additional Information: No other comments were received in response to this proceeding.

J. MB Docket No. 04-137; RM-10952

Action: At the request of Starboard Media Foundation, Inc., we are reserving vacant Channel 232C2 at Hayward, Wisconsin for NCE use.

Coordinates: 46-15-04 NL and 91-23-01 WL

Additional Information: No other comments were received in response to this proceeding.

K. MB Docket No. 04-138; RM-10953, RM-10954

Action: At the request of Fine Arts Radio, Inc. and West Virginia Educational Broadcasting Authority, we are reserving vacant Channel 287A at St. Marys, West Virginia for NCE use.

Coordinates: 39-18-03 NL and 81-15-19 WL

Additional Information: No other comments were received in response to this proceeding.

4. This document does not contain [new or modified] information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4). The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

5. Accordingly, pursuant to the authority found in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b), as amended, and 47 C.F.R. Sections 0.61, 0.204(b) and 0.283, IT IS ORDERED, That effective September 27, 2004, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED, with respect to the communities listed below, to read as follows:

<u>Community</u>	<u>Channel No.</u>
Liberty, Pennsylvania	*298A
Susquehanna, Pennsylvania	*227A, 263A
Barnwell, South Carolina	*256C3
Burnet, Texas	223A, *240A, 295A
Denver City, Texas	*248C2
Van Alstyne, Texas	*260A
Fountain Green, Utah	*260A
Shenandoah, Virginia	*296A
Augusta, Wisconsin	*268C3
Hayward, Wisconsin	222A, *232C2, 266A
St. Marys, West Virginia	230B1, *287A

6. The window period for filing NCE applications for these allotments will not be opened at this time. Instead, the issue of opening a filing window for these NCE allotments will be addressed by the Commission in a subsequent order.

7. IT IS FURTHER ORDERED, That the aforementioned proceedings ARE TERMINATED.

8. For further information concerning a specific docket, contact Rolanda F. Smith, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

**John A. Karousos
Assistant Chief, Audio Division
Media Bureau**